

7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 703, 709, 715, 723, 725

Technical Corrections

AGENCY: National Credit Union Administration

ACTION: Final Rule.

SUMMARY: The National Credit Union Administration (NCUA) Board is issuing a final technical corrections rule. The rule corrects cross-references, updates references to NCUA publications, and makes minor typographic corrections.

DATES: This rule is effective May 17, 2004.

FOR FURTHER INFORMATION CONTACT: Paul Peterson, Staff Attorney, Division of Operations, Office of General Counsel, at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428 or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

A. Background

The Board has a policy of continually reviewing NCUA regulations to "update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions." NCUA Interpretive Rulings and Policy Statement (IRPS) 87-2, Developing and Reviewing Government Regulations. The NCUA staff's most recent review of NCUA's regulations revealed the need for several minor updates and corrections.

Section 701.21(i)(4) currently states that federal credit unions must account for financial options contracts transactions in accordance with the NCUA Accounting Manual for Credit Unions, but the current version of the Accounting Manual does not address financial options contracts accounting. 12 CFR 701.21(i)(4).

Accordingly, the Board amends §701.21(i)(4) to delete the reference to the Accounting Manual.

Section 703.1(b)(6) contains an incorrect reference to §741.3(a)(3). The correct reference should be to §741.3(a)(2). The Board amends §703.1(b)(6) to make this correction.

Sections 709.1(c) and 725.18(c) contain incorrect references to §§700.1(j) and 700.1(k), respectively. The correct references should both be to §700.2(e)(1). The Board amends §§709.1(c) and 725.18(c) to make this correction.

In §715.3(a), the conjunction “and” that should be between the two subparagraphs (1) and (2) is incorrectly placed in the second subparagraph. The Board amends §715.3(a) to correct this.

In the first sentence of §723.20(b), the phrase “members business loan rule” should be “member business loan rule.” In §723.21, the capitalization of “Net Member Business Loan Balance” should be changed to “Net member business loan balance” to make it consistent with the format of the other definitions in that section. The Board amends §§723.20(b) and 723.21 to make these changes.

B. Regulatory Procedures

Final Rule Under the Administrative Procedure Act

The amendments in this rule are technical rather than substantive. NCUA finds good cause that notice and public comment are unnecessary under sec. 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B). NCUA also finds good cause to dispense with the 30-day delayed effective date

requirement under sec. 553(d)(3) of the APA. The rule will, therefore, be effective immediately upon publication of this notice.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (those credit unions under ten million dollars in assets). This rule will not have a significant economic impact on a substantial number of small credit unions, and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that this rule will not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in [44 U.S.C. 3502](#)(5), voluntarily complies with the executive order. This

rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999--Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

List of Subjects

12 CFR Part 701

Credit unions.

12 CFR Part 703

Credit unions, Investments

12 CFR Part 709

Credit unions, Liquidations.

12 CFR Part 715

Audits, Credit unions, Supervisory committees.

12 CFR Part 723

Credit, Credit unions.

12 CFR Part 725

Credit unions, Liquidity.

By the National Credit Union Administration Board on May 11, 2004.

Becky Baker,

Secretary of the Board.

Accordingly, the NCUA amends 12 CFR parts 701, 703, 709, 715, and 725 as follows:

PART 701-- Organization and Operation of Federal Credit Unions

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. 1861 and 42 U.S.C. 3601-3610. Section 701.35 is also authorized by 42 U.S.C. 4311-4312.

2. Revise paragraph (i)(4) of §701.21 as follows:

§701.21 Loans to Members and Lines of Credit to Members.

* * * * *

(i) * * *

(4) *Accounting.* A federal credit union must account for financial options contracts transactions in accordance with generally accepted accounting principles.

PART 703-- Investment and Deposit Activities

3. The authority citation for part 703 continues to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

4. Revise paragraph (b)(6) of §703.1 as follows:

§703.1 Purpose and scope.

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(b) * * *

(6) Investment activity by State-chartered credit unions, except as provided in §741.3(a)(2) and §741.219 of this chapter.

5. Remove the last sentence of paragraph (a) of §703.4.

PART 709-- Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions

in Liquidation

6. The authority citation for part 709 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1767, 1786(h), 1787, 1788, 1789, 1789a.

7. Revise paragraph (c) of §709.1 as follows:

§709.1 Definitions

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(c) “Insolvent” means insolvent as that term is defined in §700.1(e)(1) of this chapter.

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PART 715-- Supervisory Committee Audits and Verifications

8. The authority citation for part 715 continues to read as follows:

Authority: 12 U.S.C. 1761(b), 1761d, 1782(a)(6).

9. Revise paragraphs (a)(1) and (a)(2) of §715.3 as follows:

§715.3 General responsibilities of the Supervisory Committee.

(a) * * *

(1) Meet required financial reporting objectives and

(2) Establish practices and procedures sufficient to safeguard members' assets.

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PART 723-- Member Business Loans

10. The authority citation for part 723 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

11. Revise the first sentence of paragraph (b) of §723.20 as follows:

§723.20 How can a state supervisory authority develop and enforce a member business loan regulation?

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(b) To receive NCUA's approval of a state's member business loan rule, the state supervisory authority must submit its rule to the NCUA regional office. * * *

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12. Revise the definition of "Net Member Business Loan Balance" in §723.21 as follows:

§723.21 Definitions.

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Net member business loan balance means the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other financial institutions, or by a lien in the member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political

subdivision of such state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of such state, or sold as a participation interest without recourse and qualifying for true sales accounting under generally accepted accounting principles.

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PART 725-- Central Liquidity Facility

13. The authority citation for part 725 continues to read as follows:

Authority: 12 U.S.C. 1795 – 1795f.

14. Revise the first sentence of paragraph (c) of §725.18 as follows:

§725.18 Creditworthiness.

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(c) Specific characteristics of an uncreditworthy credit union include, but are not limited to, insolvency as defined by §700.2(e)(1) of this chapter, unsatisfactory practices in extending credit, lower than desirable reserve levels, high expense ratio, failure to repay previous Facility advances as agreed, excessive dependence on borrowed funds, inadequate cash management policies and planning, or any other relevant characteristics creating a less than satisfactory condition. * * *

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